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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,448	09/08/2000	Alexander Peleg	42390.P2003	1536

7590 12/21/2001

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EXAMINER

KIM, KENNETH S

ART UNIT	PAPER NUMBER
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2183

DATE MAILED: 12/21/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 09 657448

Applicant(s) Alexander PELEG

Examiner Ken S. Kim

Group Art Unit 2183

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

*Applicant is reminded that 9/657,448 is the correct serial No.*

- ☒ Responsive to communication(s) filed on Oct 12, 2001
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 15-38 is/are pending in the application.
- Of the above claim(s) 19-23 is/are withdrawn from consideration.
- ☒ Claim(s) 16-18 is/are allowed.
- ☒ Claim(s) 15, 24-38 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Notice of References Cited, PTO-892
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

1. Claims 15-38 remain for examination.
2. The abstract of the disclosure is objected to because the current abstract does not reflect the inventive feature of the claimed invention. Correction is required. See MPEP § 608.01(b).

All amended abstracts are to be submitted on a **separate sheet** (without the brackets and underlines).

3. Applicant is requested to fill the blanks in the specification. (e.g., page 21)
4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 15 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 5,802,336.

Although the conflicting claims are not identical, they are not patentably distinct from each other because "interleaving" limitation in claim 2 encompasses the arrangement of the ordered sequence of data elements from alternating source packed data recited in the present claim.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 24-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(a) Claim 24, the "second source-destination register" is inconsistent with the limitations in the base claim.

(b) Claim 34, the packing of only the first and the second data elements and not the third and fourth data elements is inconsistent with the limitations in the base claim.

8. Applicant requested reconsideration of the restriction requirement. It is noted that the second group has been examined together with the first group, since the second group is allowable without the feature distinguished from the first group, on which distinguished feature the restriction was based,

9. Applicant's election with traverse of group I in Paper No. 15 is acknowledged. The traversal is on the ground(s) that appropriate explanation of different fields of search was not provided. This is not found persuasive regarding the third group because the limitation of merging N/2 bit elements to N bit elements using only the first data elements and not merging the remaining elements is clearly different and requires a different field of search.

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The requirement is still deemed proper for the third group and is therefore made FINAL.

9. Claims 16-18 are allowed over the prior art of record.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

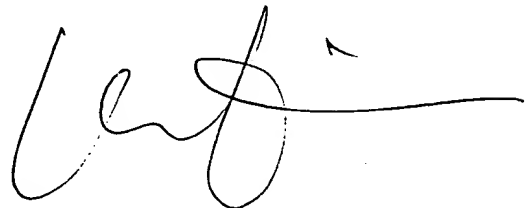
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth S KIM whose telephone number is (703) 305-9693. The examiner can normally be reached on M-F (8:30-17:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Chan can be reached on (703) 305-9712. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-5404 for regular communications and (703) 306-5404 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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December 18, 2001



KENNETH S. KIM  
PRIMARY EXAMINER